

Appendix Exhibit 33

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**COUNSEL FOR ACIS CAPITAL
MANAGEMENT, L.P. AND ACIS CAPITAL
MANAGEMENT GP, LLC**

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

IN RE: § § **CASE NO. 19-34054**
HIGHLAND CAPITAL MANAGEMENT, § §
L.P., § §
DEBTOR. § § **Chapter 11**

**ACIS CAPITAL MANAGEMENT, L.P. AND ACIS CAPITAL MANAGEMENT GP,
LLC'S JOINDER TO THE REDEEMER COMMITTEE'S OBJECTION TO UBS'S
MOTION FOR RELIEF FROM THE AUTOMATIC STAY TO PROCEED WITH
STATE COURT ACTION**

Acis Capital Management, L.P. ("Acis LP") and Acis Capital Management GP, LLC ("Acis GP," together with Acis LP, "Acis") file this *Joinder* (the "Joinder") to the *Redeemer Committee of the Highland Crusader Funds' Objection* [Docket No. 692](the "Redeemer Objection") to the *Motion for Relief from the Automatic Stay to Proceed with State Court Action* [Docket No. 644] (the "UBS Motion") filed by UBS Securities LLC and UBS AG, London Branch (together "UBS").¹

¹ Unless otherwise defined herein, Acis incorporates by reference all defined terms in the *Redeemer Objection*.

**ACIS CAPITAL MANAGEMENT, L.P. AND ACIS CAPITAL MANAGEMENT GP, LLC'S JOINDER TO
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I. JOINDER

1. On June 3, 2020, the Redeemer Committee of the Highland Crusader Fund (the "Redeemer Committee") filed the Redeemer Objection, objecting to the UBS Motion.

2. Acis hereby joins the Redeemer Objection, objects to the UBS Motion, and adopts the Redeemer Committee's legal argument and authority.

3. In addition to the points made by the Redeemer Committee, Acis notes something about UBS's claim that is not apparent from the UBS Motion. As outlined in the New York Court's decision, from the time UBS seized the assets from the Fund Counterparties until UBS sold them, the assets appreciated *significantly* in value. Docket No. 644-2 at 28-36. The New York Court ruled that the Fund Counterparties were not entitled to an offset from the enormous post-breach gains UBS made when it ultimately sold the assets it seized, instead finding damages based on the depressed value of the assets on the date of breach. *Id.* But Acis believes offset *will* factor prominently in any assessment of whether the Debtor is the alter ego of the Fund Counterparties such that "the corporate form [should] be disregarded to achieve an equitable result." *Clark Rigging & Rental Corp. v. Liberty Mut. Ins. Co.*, 179 A.D.3d 1510, 1511 (N.Y. App. Div. 2020) (emphasis added). In light of UBS's enormous post-breach gains, whether UBS needs or is entitled to *equity* is an issue that the New York Court has not yet addressed, and which this Court of equity is uniquely situated to promptly adjudicate after hearing from all parties in interest. Debtor's creditors, minus UBS, will have no such voice in the New York Court.

II. PRAAYER

Acis respectfully requests that this Court deny the UBS Motion. Acis also requests such other and further relief to which it may show itself to be justly entitled.

ACIS CAPITAL MANAGEMENT, L.P. AND ACIS CAPITAL MANAGEMENT GP, LLC'S JOINDER TO THE REDEEMER COMMITTEE'S OBJECTION TO UBS'S MOTION FOR RELIEF FROM THE AUTOMATIC STAY TO PROCEED WITH STATE COURT ACTION

DATED: June 3, 2020.

Respectfully submitted,

By: /s/ Brian P. Shaw
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CERTIFICATE OF SERVICE

I hereby certify that on June 3, 2020, notice of this document will be electronically mailed to the parties that are registered or otherwise entitled to receive electronic notices in this case pursuant to the Electronic Filing Procedures in this District.

/s/ Brian P. Shaw

Brian P. Shaw

ACIS CAPITAL MANAGEMENT, L.P. AND ACIS CAPITAL MANAGEMENT GP, LLC'S JOINDER TO THE REDEEMER COMMITTEE'S OBJECTION TO UBS'S MOTION FOR RELIEF FROM THE AUTOMATIC STAY TO PROCEED WITH STATE COURT ACTION

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